

### **REMARKS**

Reconsideration and allowance of the subject application are respectfully requested. Applicants thank the Examiner for total consideration given the present application. Claims 1-32 were pending prior to the Office Action. No claims have been added through this reply. Claim 3 has been canceled without prejudice or disclaimer of the subject matter included therein. Therefore, claims 1-2 and 4-32 are pending. Claims 1, 12, and 25 are independent. Applicants respectfully request reconsideration of the rejected claims in light of the remarks presented herein, and earnestly seeks a timely allowance of all pending claims.

### **OFFICIAL ACTION**

#### **Claim Rejection - 35 U.S.C. § 102(e) / 35 U.S.C. § 103(a)**

Claims 1, 12, and 25 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by Horie et al. (U.S. Patent Publication 2003/0041137) and claims 1-32 is rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Makoto (JP. 2000-224673) in view of Horie. Applicants respectfully traverses these rejections.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02*. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish a *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

#### **Argument A: Features of claims 1, 12, and 25 not taught:**

Independent claims 1, 12, and 25 have been amended to include features of claim 3. More specifically, claim 1 as amended recites, *inter alia*, “communication management means for detecting a communication condition of at least one of the first communication path and the

second communication path, wherein the control right management section is capable of changing a setting of the control right in accordance with variation of the communication condition detected by the communication management means.”

The Examiner relies on Makoto for the alleged teaching of claim 3. Makoto merely discloses that the acquisition of release of a right of priority to the video source (6a) is obtained when a command control signal (40) from subunit (2a) is received by the network box (4) (paragraph 36). Thus, in order to perform the command control, a special signal from the subunit (2a) is required to be sent.

In contrast to Makoto, claim 3 of the present application does not require a special signal to be sent to perform the control right. It can “change a setting of the control right in accordance with variation of the communication condition detected by the communication management means.”

Furthermore, the specification describes the reasons (benefits) that the present application does not use a special signal (*i.e.*, see specification, page 5, lines 1-14): “a special command for obtaining the control right is sent to a device which manages the control right of the corresponding device, so that the control right is obtained. However, in the control method, it is necessary that a device other than the device for managing the control right, e.g., a device which requests the control right can explicitly treat the control right...The present invention was devised from the foregoing view point, and its object is to provide a device control management apparatus which can manage a control right with respect to a device which is not directly connected to a network.”

Therefore, newly amended claims 1, 12, and 25 are patentable distinct over Makoto and Horie does not cure the deficiencies found in Makoto.

Dependent claims 2-11, 13-24, and 26-32 are allowable for the reasons set forth above with regards to claims 1, 12, and 25 at least based on their dependency on claims 1, 12, and 25.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1-32 under 35 U.S.C. § 102(b) and 103(a).

Reconsideration and allowance of claims 1-2 and 4-32 are respectfully requested for at least these reasons.

**Conclusion**

Therefore, for at least these reasons, all claims are believed to be distinguishable over Makoto. It has been shown above that Makoto may not be relied upon to show at least these features. Therefore, claims 1-2 and 4-32 are distinguishable over Makoto and Horie.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Aslan Ettehadieh Reg. No. 62,278 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: January 22, 2009

Respectfully submitted,

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